

JUDGE SCHEINDLIN

UNITED STATES DISTRICT COURT

SOUTHERN

District of

NEW YORK

CHRISTOPHER SIMMONS,

Plaintiff,

SUMMONS IN A CIVIL ACTION

V.

C.O. RIOS, SHIELD NO. 8338  
C.O. MARQUEZ, SHIELD NO. 16071,  
CORRECTION CAPTAIN MORALES  
and C.O.'S "JOHN DOE" 1-3,

Defendants.

CASE NUMBER:

'08 CIV 4583

TO: (Name and address of Defendant)

RIOS, MARQUEZ, MORALES and "DOE'S" 1-3  
60 HUDSON STREET  
NEW YORK, NEW YORK 10013

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

ALAN D. LEVINE  
80-02 KEW GARDENS ROAD, SUITE 1010  
KEW GARDENS, NEW YORK 11415

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

(By) DEPUTY CLERK

MAY 19 2008

DATE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CHRISTOPHER SIMMONS,

Plaintiff,

- against -

COMPLAINT AND  
JURY TRIAL DEMAND

C.O. RIOS, Shield No. 8338,  
C.O. MARQUEZ, Shield No. 16071,  
CORRECTION CAPTAIN MORALES  
and C.O. "JOHN DOE" Nos. 1-3,

Defendants.  
-----X

Plaintiff, CHRISTOPHER SIMMONS, by his attorney, ALAN D. LEVINE, ESQ.,  
as and for his complaint herein, hereby alleges as follows:

**JURISDICTION**

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.
2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the fourteenth amendment to the Constitution of the United States.
3. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343.

**VENUE**

4. Venue is properly alleged in the Eastern District of New York in that the acts complained of herein occurred within this District.

**JURY TRIAL DEMAND**

5. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

**PARTIES**

6. At all times relevant hereto, plaintiff, CHRISTOPHER SIMMONS, was and is a natural person, resident in the County of Kings, City and State of New York.

7. At all times relevant hereto, defendant C.O. RIOS, Shield No. 8338 (hereinafter "RIOS") was and is a natural person, employed as a correction officer by the City of New York.

8. At all times relevant hereto, defendant C.O. MARQUEZ, Shield No. 16071 (hereinafter "MARQUEZ") was and is a natural person, employed as a correction officer by the City of New York.

9. At all times relevant hereto, defendant CORRECTION CAPTAIN MORALES was and is a natural person, employed as a correction captain by the City of New York.

10. At all times relevant hereto, defendants C.O. "JOHN DOE" Nos. 1-3 were and are natural persons, employed as correction officers by the City of New York.

11. Defendants are sued in their individual capacities as well as in their capacities as employees of the City of New York

**AS AND FOR A CAUSE OF ACTION**  
**(42 U.S.C. § 1983)**

12. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "11" hereinabove as if more fully set forth at length herein.

13. On or about January 1, 2007, and for a period of time prior thereto, plaintiff was incarcerated, as a pre-trial detainee, in Building 4 at the George R. Vierno Center, which is located on Rikers Island in the County of Bronx, City and State of New York.

14. At or about 8:45 P.M. to 9:00 P.M. on and at the aforesaid date and location, plaintiff was lawfully present in the day room of the aforementioned facility and was playing cards.

15. At the aforementioned time and place, the defendants entered the day room and ordered all the inmates therein, including plaintiff, to return to their cells.

16. Plaintiff did as he was told and was locked into his cell.

17. Several minutes later, the defendants returned to plaintiff's cell and ordered plaintiff not to talk.

18. The defendants proceeded to demand plaintiff's identification card.

19. Plaintiff responded that his identification card was still in the day room.

20. One of the defendants now asked the plaintiff, "Didn't I tell you not to talk?"

21. The defendants ordered plaintiff to face the window sill.

22. Plaintiff did as he was told.

23. Plaintiff was further instructed to keep his hands on the aforementioned window sill.

24. One of the defendants now ordered plaintiff to remove his clothing and walk out of his cell.

25. Plaintiff responded that he could not obey the order to remove his clothing without disobeying the order to keep his hands on the window sill.

26. Upon his making the aforementioned statement, without any cause or provocation therefor, the defendants struck and beat plaintiff, causing injuries to his face, right eye, back, neck, head, left elbow and chest.

27. Defendants violated plaintiff's right to the due process of law guaranteed to him by the fourteenth amendment to the Constitution of the United States in that, acting under color of state law, they, without any cause or provocation whatsoever, brutally and severely beat and humiliated him.

28. Because of the aforesaid acts committed by the defendants, plaintiff suffered a deprivation of the right to the due process of law guaranteed to him by the fourteenth amendment to the Constitution of the United States and, as a result, suffered and continues to suffer serious and permanent physical and emotional injuries, and has required and will continue to require medical treatment for his injuries.

29. By reason of the aforementioned unconstitutional and illegal actions taken against him by the defendants, plaintiff has been damaged in the amount of One Million (\$1,000,000.00) Dollars and demands an additional One Million (\$1,000,000.00) Dollars as punitive damages.

WHEREFORE, plaintiff, CHRISTOPHER SIMMONS, demands judgment against defendants, C.O. RIOS, Shield No. 8338, C.O. MARQUEZ, Shield No. 16071, CORRECTION CAPTAIN MORALES and C.O. "JOHN DOE" Nos. 1-3, in the amount of One Million (\$1,000,000.00) Dollars and demands an additional One Million (\$1,000,000.00) Dollars as punitive damages.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York  
May 5, 2008

A handwritten signature in black ink, appearing to read "Alan D. Levine", written over a horizontal line.

ALAN D. LEVINE, ESQ.  
Attorney for Plaintiff  
80-02 Kew Gardens Road, Suite 1010  
Kew Gardens, New York 11415  
718-793-6363  
File No. 2057C